

2. Tenn. Code Ann. § 45-1-107(a)(4) provides that, in addition to other powers conferred by Title 45 of the Tennessee Code, the Commissioner has the power to order

any person to cease violating a provision of Title 45 of the Tennessee Code or lawful regulation issued thereunder, and Tenn. Code Ann. § 45-13-116 provides that if, after notice and opportunity for a hearing, the Commissioner finds that a person has violated the Act or any administrative rule issued pursuant to the Act, the Commissioner may take any or all of certain actions, one of which is to order the person to cease and desist violating the Act or any administrative rule issued pursuant to the Act.

3. Pursuant to Tenn. Code Ann. § 45-1-107(c), notice and opportunity for a hearing shall be provided in advance of the Commissioner issuing such an order, except that in cases involving extraordinary circumstances requiring immediate action, the Commissioner may take such action but shall promptly afford a subsequent hearing upon application to rescind the action taken.

4. The Respondent is a domestic for-profit corporation whose principal office is located at 3412 Park Avenue, Memphis, Tennessee 38111. The Respondent's registered agent is Charles E. Moore whose address is listed with the Tennessee Secretary of State as also being 3412 Park Avenue, Memphis, Tennessee 38111. Charles E. Moore is also president of the corporation and sole or part owner.

#### **FACTUAL ALLEGATIONS**

5. The Department regulates mortgage loan lenders, mortgage loan brokers, and mortgage loan servicers under the Act, which regulation includes the licensing or registration of said entities.

6. The Respondent has never been authorized by the Department to do business as a mortgage loan lender, mortgage loan broker, or mortgage loan servicer in this state.

7. On July 26, 2007, the Department received a complaint from a Tennessee consumer who borrowed money from the Respondent pursuant to a mortgage loan transaction, alleging that the Respondent had engaged in predatory lending.

8. In response to the consumer complaint, the Department performed an investigation of the Respondent's business and discovered that the Respondent made at least the following nine (9) mortgage loans since June, 2006:

- a. A mortgage loan in the amount of \$16,500.00 on June 14, 2006.
- b. A mortgage loan in the amount of \$8,244.88 on August 24, 2006
- c. A mortgage loan in the amount of \$14,150.93 on August 24, 2006
- d. A mortgage loan in the amount of \$8,492.87 on Dec. 14, 2006
- e. A mortgage loan in the amount of \$10,497.52 on Feb. 28, 2007
- f. A mortgage loan in the amount of \$6,308.55 on March 19, 2007
- g. A mortgage loan in the amount of \$22,000.00 on April 20, 2007
- h. A mortgage loan in the amount of \$10,960.96 on June 4, 2007
- i. A mortgage loan in the amount of \$8,000.00 on June 8, 2007

9. The above pattern of continuing to make mortgage loans on an intermittent basis from June, 2006 through June, 2007 is an indicator that the Respondent will continue to make mortgage loans in the future, notwithstanding the fact that it is not authorized to do so by the Department.

#### **CAUSES OF ACTION**

10. Pursuant to Tenn. Code Ann. § 45-13-103(a), no person shall act as a mortgage lender in this state without first complying with the applicable licensing or registration requirements. Relevant requirements are stated at Tenn. Code Ann. § 45-13-105 and include that, among other things, an applicant must file an application showing to the Commissioner that it has the financial responsibility, experience, and character to warrant the belief that its business will be operated lawfully and within the purposes of the Act. Furthermore, Tenn. Code Ann. § 45-13-106(a) requires an applicant for a

license to make mortgage loans to obtain a surety bond or letter of credit in the amount of two hundred thousand dollars (\$200,000), payable to the state for the benefit of any person injured by the wrongful act, default, fraud or misrepresentation of the licensee.

11. The factual allegations set forth in Paragraphs five (5) through nine (9), above, incorporated by reference herein, are sufficient to establish by a preponderance of the evidence that the Respondent violated Tenn. Code Ann. §§ 45-13-103(a), 45-13-105, and 45-13-106(a) by making the nine (9) mortgage loans referenced in paragraph eight (8), above, while not licensed by the Department to do so and while not carrying the requisite surety bond or letter of credit. Said violation has deprived the Commissioner of the opportunity to determine whether the Respondent has the requisite financial responsibility, experience, and character to lawfully operate a mortgage loan business, thereby also depriving the Commissioner of the opportunity to make an informed determination of whether to grant the Respondent a license under the Act, prior to the Respondent making mortgage loans to Tennessee consumers. Said violation has also deprived the Department and Tennessee consumers of a surety bond or letter of credit to pursue in the event that any borrowers are injured by the Respondent's wrongful act, default, fraud, or misrepresentation.

12. Pursuant to Tenn. Code Ann. § 45-1-107(c), the Commissioner may issue an Emergency Cease and Desist Order without affording prior notice and opportunity for a hearing when extraordinary circumstances so require. Based on the violations already committed, and the continuing pattern of making mortgage loans without a license, the likelihood exists that the Respondent will continue to make mortgage loans without a

license; therefore, these extraordinary circumstances require immediate action by the Commissioner.

### **EMERGENCY ORDER**

Having considered the factual allegations contained herein, the Commissioner has determined that the Respondent has violated and is violating the Act, and that extraordinary circumstances warrant immediate action.

IT IS HEREBY ORDERED that the Respondent shall immediately cease and desist from engaging in the business of mortgage lending in this state including, but not limited to, entering new mortgage loan agreements or initiating foreclosure proceedings against its customers who have defaulted or who will default on their obligation.

The provisions of this ORDER shall remain in full force and effect unless and until such time as any provision shall have been modified, terminated, suspended or set aside by the Commissioner, an administrative judge, or any court having jurisdiction over the matters addressed herein.

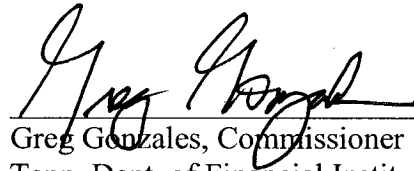
### **RIGHTS OF THE RESPONDENT**

The Respondent has the right to a hearing for the purpose of contesting and obtaining rescission of this ORDER. If a separate hearing is timely requested by the Respondent, any such hearing shall be conducted in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.*, and Chapter 0180-6 of the Rules of the Department.

In order to request a hearing, the Respondent must file a written request within twenty (20) days from receipt of this ORDER. If no such written request is timely filed, then this EMERGENCY CEASE AND DESIST ORDER will be deemed final for all

purposes. Any written request for a hearing must be filed with the Commissioner, Tennessee Department of Financial Institutions, Nashville City Center, 511 Union Street, 4<sup>th</sup> Floor, Nashville, Tennessee 37219.

ISSUED, this the 8<sup>th</sup> day of October, 2007.

  
\_\_\_\_\_  
Greg Gonzales, Commissioner  
Tenn. Dept. of Financial Institutions